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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,994	06/27/2003	Brian McMillan	2277/SPRI.103997	6415
32423	7590	04/23/2004	EXAMINER	
SPRINT COMMUNICATIONS COMPANY L.P. 6391 SPRINT PARKWAY KSOPHT0101-Z2100 OVERLAND PARK, KS 66251-2100			MAYO III, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

8M.

Office Action Summary**Application No.**

10/608,994

Applicant(s)

MCMILLAN ET AL.

Examiner

William H. Mayo III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 111703.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed November 17, 2003 has been submitted for consideration by the Office. It has been placed in the application file and the information referred to therein has been considered.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because in line 8, it contains the term "comprises", which is improper language for the abstract. The applicant should replace the term with --has-- In line 1, the abstract also states "Disclosed is an enclosure for a... industry", which is also improper language for the abstract. The applicant should delete the sentence. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7, 8-17, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (Pat Num 4,314,094, herein referred to as Smith). Smith discloses a device (Figs 1-6) for enclosing spliced cables (72, 74, abstract). Specifically, with respect to claim 1, Smith discloses a device (Figs 1-6) comprising a container (10) having an opening (top opening, Col 3, lines 10-12), an inside surface, and an outside surface (Fig 1), protective matter (18) disposed inside the container (10), a splice supporting member (20) being receiving through the opening (top opening) and immersed in the protective matter (18, Col 3, lines 38-46), wherein the splice supporting member (20) defines at least one passageway (22) therethrough for the receipt of cables (72, 74, Col 3, lines 38-46) and a locking mechanism (54, 56, 60 & 62) for preventing withdrawal of the member (20) from the container (10, Col 4, lines 30-64), wherein the mechanism (54, 56, 60, & 62) comprise a protrusion (60 & 62) which is received in a channel (inside of sleeve 54), wherein the protrusion (60 & 62) and channel (inside of sleeve 54) is defined by the outside surface of the member (20, Col 3, lines 53-64) and another one of the protrusion (56) and channels (inside of vial) is defined by the inside surface of the container (10, Col 4, lines 40-52). With respect to claim 2, Smith discloses that the container (10) is substantially cylindrical (see cross

sections of Figs 4-5) and said one of the protrusions (14) extends annularly inward from the inside surface of the container (10, Col 4, lines 30-41). With respect to claim 3, Smith discloses that one of the protrusions (14) is defined by said inside surface of said container (10) so as to be substantially annular (i.e. threads extend annularly) within the container (10, Col 4, lines 30-41). With respect to claim 4, Smith discloses that one of the protrusions (14) has a wave shaped cross section (i.e. threads are wavy). With respect to claim 5, Smith discloses that one of the channels (inside of sleeve 54) is defined by a portion of the outside surface of the member (20, i.e. pins extending in channel) wherein the outside surface of the member (20) is slidably receivable by the inside surface of the container (10, via the sleeve 54, Col 4, lines 30-64). With respect to claim 6, Smith discloses that the channel (inside surface of sleeve 54) is formed as a partial annular rib (adjacent grooves 64 & 66) about the portion of the outside surface of the member (20, Col 4, lines 53-64). With respect to claim 7, Smith discloses that one of the channels (i.e. inside surface of sleeve 54 and vial 10) has a wave-shaped cross section (i.e. threaded surface). With respect to claim 9, Smith discloses an additional protrusion (60 & 62) which is received in an additional channel (is grooves 64 & 66); wherein one of said additional protrusion (60 & 62) and additional channel (64 & 66) are defined by an outside surface of said member (20), and wherein the another of said additional protrusion (56) and additional channel (inside of sleeve 54) is defined by an inside surface of said container (10, Col 4, lines 30-64). With respect to claim 10, Smith discloses that the protrusion (56, 60, & 62) comprises a third protrusion (56, 60, 62), which is received in a third channel (inside grooves of vial and sleeve); wherein one of

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said third protrusion (56, 60, & 62) and third channel (inside grooves of vial and sleeve, 64, 66) are defined by an outside surface of said member (20), the other of said third protrusion and third channel being defined by an inside surface of said container (10). With respect to claim 11, Smith discloses a protective enclosure (Figs 1-6) comprising a member (20) having first and second ends (front and rear ends); wherein the first end (front end) has a substantially cylindrical outside surface (36) and defining at least two cable-receiving axial passageways (22) therethrough; said second end (rear end) is capable of supporting a splice thereon (Col 3, lines 38-58); a substantially tubular container (10) with closed and open ends (Col 3, lines 10-12); wherein the open end is capable of receiving said splice-supporting second end (20) and then engaging the substantially cylindrical outside surface of said first end to substantially plug the container (10, via sleeve 54, Col 4, lines 30-64); an annular rib (56, 60, & 62) which is received in an annular channel (inside of vial 10 and sleeve 54); wherein one of said rib (60 & 62) and channel (64 & 66) is defined by an outside surface of said member (20) and the other of said rib (56) and channel (inside of vial) is defined by an inside surface of said container (10, Col 4, lines 30-64). With respect to claim 12, Smith discloses that the container (10) is substantially cylindrical (see cross sections of Figs 4-5) and said one of the protrusions (14) extends annularly inward from the inside surface of the container (10, Col 4, lines 30-41). With respect to claim 13, Smith discloses that one of the protrusions (14) is defined by said inside surface of said container (10) so as to be substantially annular (i.e. threads extend annularly) within the container (10, Col 4, lines 30-41). With respect to claim 14, Smith discloses that one of the protrusions (14) has a

wave shaped cross section (i.e. threads are wavy). With respect to claim 15, Smith discloses that one of the channels (inside of sleeve 54) is defined by a portion of the outside surface of the member (20, i.e. pins extending in channel) wherein the outside surface of the member (20) is slidably receivable by the inside surface of the container (10, via the sleeve 54, Col 4, lines 30-64). With respect to claim 16, Smith discloses that the channel (inside surface of sleeve 54) is formed as a partial annular rib (adjacent grooves 64 & 66) about the portion of the outside surface of the member (20, Col 4, lines 53-64). With respect to claim 17, Smith discloses that one of the channels (i.e. inside surface of sleeve 54 and vial 10) has a wave-shaped cross section (i.e. threaded surface). With respect to claim 19, Smith discloses an additional protrusion (60 & 62) which is received in an additional channel (is grooves 64 & 66); wherein one of said additional protrusion (60 & 62) and additional channel (64 & 66) are defined by an outside surface of said member (20), and wherein the another of said additional protrusion (56) and additional channel (inside of sleeve 54) is defined by an inside surface of said container (10, Col 4, lines 30-64). With respect to claim 20, Smith discloses that the protrusion (56, 60, & 62) comprises a third protrusion (56, 60, 62), which is received in a third channel (inside grooves of vial and sleeve); wherein one of said third protrusion (56, 60, & 62) and third channel (inside grooves of vial and sleeve, 64, 66) are defined by an outside surface of said member (20), the other of said third protrusion and third channel being defined by an inside surface of said container (10).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 8 & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (Pat Num 4,314,094, herein referred to as Smith). Smith discloses a device (Figs 1-6) for enclosing spliced cables (72, 74, abstract) as disclosed above with respect to claims 1 & 11 above. Specifically, Smith discloses that the one of the rib (i.e. threaded surface 56) has a gradually sloped face (i.e. upward side of corrugation) on one side and a barrier face on another side (downward side of corrugation) and said channel (inside of vial) has a gradual dropoff (downward side of corrugation) on one side which engages said gradually sloped face (upward side of corrugation) when said member

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(20) is received into the container (10, via sleeve 54) when a user attempts to remove the member (20) from said container (10, via sleeve 54, Col 4, lines 30-64).

However, Smith doesn't necessarily disclose the channel also having a steep rise on which engages said barrier face (claims 8 & 18).

With respect to claims 8 & 18, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the channel of Smith to comprise a steep rise on which engages the barrier face, since it has been held that a change in form cannot sustain patentability where involved is only extended application of obvious attributes from a prior art. *In re Span-Deck Inc. vs. Fab-Con Inc.* (CA 8, 1982) 215 USPQ 835.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are Smith (Pat Num 3,934,076) and Mendes (Pat Num 5,764,844), both of which disclose splice enclosure apparatuses.

Communication

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Mayo III whose telephone number is (571)-272-1978. The examiner can normally be reached on M-F 8:30am-6:00 pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WHM III
April 15, 2004

William H. Mayo III
Primary Examiner
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